

Remarks

This is in response to the non-final Office Action mailed on October 4, 2004. Claims 20-31 and 33-40 have been canceled without prejudice or disclaimer. Claims 1-19 remain pending. Reconsideration and allowance of all claims are respectfully requested.

I. Rejections Based on Recapture

At pages 10 and 11 of the Office Action, claims 20-31 and 33-40 were rejected under 35 U.S.C. § 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based.

This rejection is respectfully traversed, and the correctness of the rejection and the characterization of the claim limitations provided in the Claim Comparison Table at pages 19 and 20 of the Action are not conceded. However, Applicants agree to the extent the Examiner's comments indicate that the scope of claim 8 can be interpreted to encompass both a combustion chamber enclosure comprising a plurality of panels and a one-piece combustion chamber enclosure.

In the interest of moving this application into condition for allowance, claims 20-31 and 33-40 have been canceled. Reconsideration and removal of the rejection are therefore respectfully requested.

II. Duplicate Claims

At page 11 of the Office Action, claims 22-25 were noted as being substantial duplicates of claims 31 and 33-36. While the correctness of this characterization is not conceded, claims 22-25, 31, and 33-36 have been canceled. Reconsideration is therefore requested.

III. Claim Rejections Under 35 U.S.C. § 112

At page 12 of the Office Action, claims 20-31 and 33-40 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. While the correctness of this rejection is not conceded, claims 20-31 and 33-40 have been canceled. Reconsideration and removal of the rejection are therefore requested.

IV. Claim Rejections Under 35 U.S.C. § 102

At pages 12 and 13 of the Office Action, claims 20, 29, 30, 37, and 40 were rejected under 35 U.S.C. § 102(b) as being anticipated by Rex, Jr. et al., U.S. Patent No. 3,100,734. In addition, at pages 14 and 15 of the Office Action, claims 20, 21, 29, 30, 37, and 40 were rejected under section 102(b) as being anticipated by Lamb et al., Great Britain Patent Application No. 2 257 783 A. These rejections are respectfully traversed, and the correctness of the rejections is not conceded.

However, in the interest of moving this application into condition for allowance, claims 20, 21, 29, 30, 37, and 40 have been canceled. Reconsideration and removal of the rejections are therefore respectfully requested.

V. Claim Rejections Under 35 U.S.C. § 103

At pages 15-17 of the Action, claims 20-31 and 33-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimek et al., U.S. Patent No. 4,793,322, in view of Lamb, Rex, Jr., or Champion, U.S. Patent No. 5,701,882. This rejection is respectfully traversed, and the correctness of the rejection is not conceded.

However, in the interest of moving this application into condition for allowance, claims 20-31 and 33-40 have been canceled. Reconsideration and removal of the rejections are therefore respectfully requested.

VI. Offer to Surrender

Attached at the Appendix hereto is the Offer to Surrender. The original letters patent will be filed prior to allowance of the application.

VII. Defective Declaration

At page 18 of the Office Action, claims 1-31 and 33-40 were rejected as being based upon a defective reissue declaration. This rejection is respectfully traversed for at least the following reasons.

Claims 20-31 and 33-40 have been canceled, rendering the rejection of these claims moot.

Claims 1-14, 16, and 18 are unchanged from the original patent, and claims 15 and 17 are amended to correct typographical errors.

Claim 19 was added to address the error identified in paragraph 6 of each of the inventor's declarations executed on May 9, 2003 and May 16, 2003, respectively.


Since the error corrected by the pending claims is identified in each inventor's declaration, it is respectfully suggested that no supplemental declaration is required. See 37 CFR 1.175(b)(1) ("For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration . . .) (underlining added). Reconsideration and removal of the rejection are therefore respectfully requested.

VIII. Conclusion

In view of the above amendments and remarks, all claims are in condition for allowance. Favorable reconsideration in the form of a Notice of Allowance is respectfully requested. Please contact the undersigned attorney with any questions regarding this application.

Respectfully submitted,
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: January 3, 2005

By: 
Name: Matthew A. Doscotch
Reg. No.: 48,957
MAD:RAK

Attachment: Appendix including the Offer to Surrender

APPENDIX

Attached hereto is the Offer to Surrender.